

### **REMARKS**

This communication responds to the Office Action dated October 8, 2008.

Claims 1, 9, and 14 are amended, and no claims are canceled, or added by this communication; as a result, claims 1, 7, 9, 11, 12, 14, and 16 remain pending in this application.

#### **§103 Rejection of the Claims**

1. Claims 1, 7, 9, 11, 12, 14, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *NowThis.com, blog entry, Nov. 24, 1999* (hereinafter; "NowThis") in view of Nielsen (U.S. Patent No. 6,789,075). Applicant respectfully traverses the rejection and claims 1, 9, and 14 are amended to clarify the present subject matter.

Applicant respectfully submits that a proper *prima facie* case of obviousness has not been established for these claims because NowThis, Nielsen, and/or the Office Action's reasoning do not disclose, teach, or suggest all of the present subject matter of claims 1, 9, and 14. For example, Applicant cannot find in NowThis, Nielsen, or the reasoning of the Office Action any disclosure or suggestion of, among other things,

sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display,

as presently similarly recited in independent claims 1, 9, and 14 and incorporated into claims 7, 11, 12, and 16.

NowThis is a blog document which includes a statement: "1 people found this review helpful. 0 did not. Was it helpful to you? [YES] [NO]." Nielsen refers to a method of sorting information elements in a web file for retrieval.<sup>1</sup>

The Office concedes that NowThis does not specifically disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order, but states that Nielsen discloses

---

<sup>1</sup> Nielsen, Abstract.

ranking web information elements according to an attribute in each element and displaying the elements in a sorted order.<sup>2</sup>

However, the sorting in Nielsen is for downloading embedded objects according to a priority attribute that is inserted into existing anchor and tag formats.<sup>3</sup> The priority of the downloading is assigned by the author [of the web file].<sup>4</sup> Thus, NowThis with Nielsen does not teach or suggest “sorting [and displaying] the reviews in ascending or descending order as a function of the number of indications tallied for each review” as similarly recited or incorporated into the claims. The Office states that it would have been obvious to incorporate the teachings of Nielsen to provide a sorting provision as doing so would have provided the user the more important reviews first. However, even if NowThis and Nielsen were combinable, the sorting would be author driven, and not a function of the number of indications tallied for each review.

Additionally, the sorting in Nielsen is not a recurrent event. To re-sort the downloadable files the author of the web file apparently has to reinsert new priority attributes in the tags. Thus, NowThis with Nielsen does not teach or suggest “recurrently tallying the number of indications and re-sorting the reviews for a subsequent display” as presently similarly recited or incorporated into the claims.

Therefore, NowThis, Nielsen and/or the Office Action’s reasoning do not disclose, teach, or suggest all of the subject matter of claims 1, 9, and 14. Withdrawal of the rejection and allowance of claims 1, 7, 9, 11, 12, 14, and 16 is respectfully requested.

2. Claims 1, 7, 9, 11-12, 14 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *WWW.EPINIONS.COM*, Oct. 12, 1999 (hereinafter; “Epinions”) in view of Salas et al. (U.S. Patent No. 6,230,185, hereinafter; “Salas”), and in further view of Nielsen. Applicant respectfully traverses the rejection.

Applicant respectfully submits that a proper *prima facie* case of obviousness has not been established for these claims because Epinions, Salas, Nielsen, and/or the Office Action’s reasoning do not disclose, teach, or suggest all of the present subject matter of claims 1, 9, and

---

<sup>2</sup> Office Action, pg. 3, last paragraph.

<sup>3</sup> Nielsen, col. 6 lines 17-21

<sup>4</sup> Nielsen, col. 6 lines 23-27.

14. For example, Applicant cannot find in Epinions, Salas, Nielsen, or the reasoning of the Office Action any disclosure or suggestion of, among other things,

sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display,

as presently similarly recited in independent claims 1, 9, and 14 and incorporated into claims 7, 11, 12, and 16.

Epinions refers to an online shopping guide that includes reviews.<sup>5</sup> Reviews are grouped according to Web of Trust that is automatically built for members according to ratings of opinions or members.<sup>6</sup> Salas refers to a method for facilitating communication between collaborators, where the communication includes data having an indication that an HTML page includes discussions among the collaborators,<sup>7</sup> and Nielsen refers to a method of sorting information elements in a web file for retrieval.<sup>8</sup>

The Office Action concedes that the proposed combination of Epinions and Salas does not specifically disclose sorting the reviews in ascending/descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order, but states that Nielsen discloses ranking web information elements according to an attribute in each element and displaying the elements in a sorted order.<sup>9</sup>

However, as set forth above, the sorting in Nielsen is for downloading embedded objects according to a priority attribute that is inserted into tags, and the priority of the downloading is assigned by the author of the web file. Thus, the proposed combination of Epinions and Salas with Nielsen does not teach or suggest “sorting [and displaying] the reviews in ascending or descending order as a function of the number of indications tallied for each review” as similarly recited or incorporated into the claims. The Office states that it would have been obvious to incorporate such a sorting provision in the Epinions/Salas system, the modification being motivated since the sorting provides a user the more important information (i.e., reviews) first.

---

<sup>5</sup> Epinions, pg. 2.

<sup>6</sup> Epinions, pg. 4.

<sup>7</sup> Salas, Abstract.

<sup>8</sup> Nielsen, Abstract.

<sup>9</sup> Office Action, pg. 6, last paragraph.

However, even if Epinions/Salas and Nielsen were combinable the sorting would be author driven, and not a function of the number of indications tallied for each review, as recited in the claims.

Additionally, the sorting in Nielsen is not a recurrent event. To re-sort the downloadable files the author apparently has to reinsert new priority attributes in the tags. Thus, the proposed combination of Epinions and Salas with Nielsen does not teach or suggest “recurrently tallying the number of indications and re-sorting the reviews for a subsequent display” as presently similarly recited or incorporated into the claims.

Therefore, Epinions, Salas, Nielsen and/or the Office Action’s reasoning do not disclose, teach, or suggest all of the subject matter of claims 1, 9, and 14. Withdrawal of the rejection and allowance of claims 1, 7, 9, 11, 12, 14, and 16 is respectfully requested.

3. Claims 1, 7, 9, 11-12, 14 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable Klingman (U.S. Patent No. 5,950,172) in view of Nielsen. Applicant respectfully traverses the rejection.

Applicant respectfully submits that a proper *prima facie* case of obviousness has not been established for these claims because Klingman, Nielsen, and/or the Office Action’s reasoning do not disclose, teach, or suggest all of the present subject matter of claims 1, 9, and 14. For example, Applicant cannot find in Klingman, Nielsen, or the reasoning of the Office Action any disclosure or suggestion of, among other things,

sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display,

as presently similarly recited in independent claims 1, 9, and 14 and incorporated into claims 7, 11, 12, and 16.

Klingman relates to a remote communication system for facilitating online evaluation of goods.<sup>10</sup> A buyer evaluates the performance of a purchased product using a scoring operation.<sup>11</sup>

---

<sup>10</sup> Klingman, Abstract.

<sup>11</sup> Klingman, col. 9 lines 30-35.

As set forth above, Nielsen refers to a method of sorting information elements in a web file for retrieval.<sup>12</sup>

The Office Action concedes that Klingman does not specifically disclose sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order as claimed, but states that Nielsen discloses ranking web information elements according to an attribute in each element and displaying the elements in a sorted order.<sup>13</sup>

However, as set forth above, the sorting in Nielsen is for downloading embedded objects according to a priority attribute that is inserted into tags, and the priority of the downloading is assigned by the author of the web file. Thus, Klingman with Nielsen does not teach or suggest “sorting [and displaying] the reviews in ascending or descending order as a function of the number of indications tallied for each review” as similarly recited or incorporated into the claims. The Office states that it would have been obvious to incorporate the teachings of Nielsen (into Klingman) so as to provide a user the more important reviews first. However, even if Klingman and Nielsen were combinable, the sorting would be author driven, and not a function of the number of indications tallied for each review, as recited in the claims.

Additionally, as set forth above, the sorting in Nielsen is not a recurrent event. To re-sort the downloadable files the author apparently has to reinsert new priority attributes in the tags. Thus, Klingman with Nielsen does not teach or suggest “recurrently tallying the number of indications and re-sorting the reviews for a subsequent display” as presently similarly recited or incorporated into the claims.

Further, although the Office Action concedes that Klingman does not expressly disclose the reviewing of reviews, it contends that it would have been obvious to modify the system of Klingman to review the reviews to better gauge the effectiveness and accuracy of the reviews.<sup>14</sup> Applicant respectfully submits that any motivation provided to modify the scoring of products by buyers in Klingman appears to be a result of a hindsight reading of the claims of the present application.

---

<sup>12</sup> Nielsen, Abstract.

<sup>13</sup> Office Action, pg. 9.

<sup>14</sup> Office Action, pg. 8.

The Office Action states that because Klingman specifically mentions that reviews of some particular users are more valuable than those of others, and mentions the desirability of a more multi-dimensional scoring mechanism when reliant upon respondents being mostly from a group of people, an ordinary artisan would have been motivated to better measure the weight of each review. The Office Action then states that it would be obvious to add review of the reviews to Klingman [because of] the processing advancements in the art to better measure interests in products/services through a wide variety of processing algorithms including the review of the review numbers themselves.<sup>15</sup>

This line of reasoning appears to be the result of using the present claims as a template or roadmap applied to Klingman to formulate a series of conclusory statements in attempting to arrive at the subject matter of the claims. The cited portions of Klingman refer to identifying buyers from non-buyers using caller ID,<sup>16</sup> and does not refer to a score of one buyer being more valuable than a score of another buyer. The cited portions of Klingman also refer to grouping reviews according to special interests and performing mathematical analyses on these categories or linking to specialty sites.<sup>17</sup> Thus, these cited portions of Klingman would lead to ways to reflect the special interests of the buyers by sorting the reviews rather than to reviewing the reviews, and the Office Action has failed to make a plausible *prima facie* of obviousness for the distinguishing recited feature using only the Klingman reference and a reasonable, non-hindsight interpretation of what is known to one of ordinary skill in the art at the time that the invention was made.

Therefore, Klingman, Nielsen and/or the Office Action's reasoning do not disclose, teach, or suggest all of the subject matter of claims 1, 9, and 14. Withdrawal of the rejection and allowance of claims 1, 7, 9, 11, 12, 14, and 16 is respectfully requested.

---

<sup>15</sup> Office Action, pg. 8.

<sup>16</sup> Klingman, col. 15 lines 19-25.

<sup>17</sup> Klingman, col. 12 lines 51-63.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 371-2172 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 371-2172

Date Feb. 6, 2009 By Paul J. Urbanski  
Paul J. Urbanski  
Reg. No. 58,351

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of February, 2009.

Nick Jack  
Name

  
Signature